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Paper ~~125~~ 16

Filed 26 September 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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JOSEPH SCOTT STAM, JON HAROLD BECHTEL  
and JOHN KING ROBERTS  
Junior Party  
(Patent 5,837,994),

v.

KENNETH SCHOFIELD, MARK L. LARSON  
and KEITH J. VADAS  
Senior Party  
(Application 09/441,341).

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Patent Interference No. 105,325 (SCM)

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Before: MARTIN, LEE, and MEDLEY, Administrative Patent Judges.

MEDLEY, Administrative Patent Judge.

**Judgment - Bd.R. 127(b) and Bd.R. 201**

1 As a result of the decision on motions it was determined that Schofield lacks standing  
2 (Bd.R. 201) with respect to Count 3 (Paper 119, pages 15-23) . It was also determined that  
3 Stam's claims 36-40 corresponding to Count 1 are unpatentable under 35 U.S.C. § 305 (Paper  
4 119, pages 54-57). Stam's priority statement fails to allege a date that is earlier than Schofield's  
5 accorded benefit date with respect to Count 1 and Count 2.

1 Accordingly, it is

2 **ORDERED** that judgment on priority as to Count 1 (Paper 1 at 4) in the interference is  
3 awarded against junior party JOSEPH SCOTT STAM, JON HAROLD BECHTEL  
4 and JOHN KING ROBERTS<sup>1</sup>.

5 **FURTHER ORDERED** that judgment as to Stam claims 36-40 is awarded against  
6 junior party JOSEPH SCOTT STAM, JON HAROLD BECHTEL and JOHN KING ROBERTS

7 **FURTHER ORDERED** that junior party JOSEPH SCOTT STAM, JON HAROLD  
8 BECHTEL and JOHN KING ROBERTS is not entitled to a patent containing claims 36-40  
9 (corresponding to Count 1) of U.S. patent 5,837,994.

10 **FURTHER ORDERED** that judgment on priority as to Count 2 (Paper 1 at 5) in the  
11 interference is awarded against junior party JOSEPH SCOTT STAM, JON HAROLD  
12 BECHTEL and JOHN KING ROBERTS.

13 **FURTHER ORDERED** that junior party JOSEPH SCOTT STAM, JON HAROLD  
14 BECHTEL and JOHN KING ROBERTS is not entitled to a patent containing claims 44-49  
15 (corresponding to Count 2) of patent 5,837,994.

16 **FURTHER ORDERED** that judgment as to Count 3 (Paper 1 at 5) in the interference is  
17 awarded against senior party KENNETH SCHOFIELD, MARK L. LARSON and KEITH J.  
18 VADAS.

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<sup>1</sup> The examiner of application 11/301,472 is directed to In re Deckler, 977 F.2d 1449, 24 USPQ2d 1448 (Fed. Cir. 1992) regarding the patentability of claims presented that are identical to claims 36-40 of the Stam 5,837,994 patent.

1           **FURTHER ORDERED** that senior party KENNETH SCHOFIELD, MARK L.  
2   LARSON and KEITH J. VADAS is not entitled to a patent containing claim 99 (corresponding  
3   to Count 3) of application 09/441,341.

4           **FURTHER ORDERED** that a copy of this paper shall be made of record in the files of  
5   application 09/441,341 and U.S. Patent 5,837,994.

6           **FURTHER ORDERED** that Stam shall, within five days of the date of this order, file a  
7   copy of this paper in application 11/301,472.

8           **FURTHER ORDERED** that if there is a settlement agreement, attention is directed to 35  
9   U.S.C. § 135(c) and Bd.R. 205.

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11                   /John C. Martin/                   )  
12                   JOHN C. MARTIN                   )  
13                   Administrative Patent Judge                   )  
14                   )                   )  
15                   )                   )  
16                   /Jameson Lee/                   )BOARD OF PATENT  
17                   JAMESON LEE                   ) APPEALS AND  
18                   Administrative Patent Judge                   ) INTERFERENCES  
19                   )                   )  
20                   )                   )  
21                   /Sally C. Medley/                   )  
22                   SALLY C. MEDLEY                   )  
23                   Administrative Patent Judge                   )  
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**Despertt, Sonja**

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